

Membership Balance Plan
Judiciary Proceedings Since Fiscal Year 2012 Amendments Panel

Agency: Department of Defense

1. Authority: The Secretary of Defense, as required by section 576(a)(2) of the National Defense Authorization Act for Fiscal Year 2013 (“FY 2013 NDAA”) (Public Law 112-239), as modified by section 1731(b) of the National Defense Authorization Act for Fiscal Year 2014 (“the FY 2014 NDAA”) (Public Law 113-66), and in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 C.F.R. § 102-3.50(a), established the Judicial Proceedings Since Fiscal Year 2012 Amendments Panel (“the Judicial Proceedings Panel”).
2. Mission/Function: The Judicial Proceedings Panel will conduct an independent review and assessment of judicial proceedings conducted under the Uniform Code of Military Justice (UCMJ) involving adult sexual assault and related offenses since the amendments made to the UCMJ by section 541 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81) for the purpose of developing recommendations for improvements to such proceedings.
3. Points of View: Pursuant to sections 576(b)(1)(B) and (b)(2), the Judicial Proceedings Panel shall be composed of five members appointed by the Secretary of Defense, two of whom must have served as panel members of the Response Systems to Adult Sexual Assault Crimes Panel (“the Response System Panel”).

Members of the Judicial Proceedings Panel shall be selected from among private United States citizens who collectively possess expertise in military law, civilian law, the investigation, prosecution, and adjudication of sexual assaults in State and Federal criminal courts, victim advocacy, treatment for victims, military justice, the organization and missions of the Armed Forces, and offenses relating to rape, sexual assault, and other adult sexual assault crimes.

The Department of Defense (DoD), in selecting its potential candidates for the Judicial Proceedings Panel, reviews the educational, experiential, and professional credentials of individuals and bases its selection on this review and the subject matters to be handled by the Judicial Proceedings Panel. The DoD has found that viewing the complex issues facing the Judicial Proceedings Panel through an interdisciplinary advisory committee provides the DoD and, more importantly, the American public with a broader understanding of the issues on which to base subsequent policy decisions.

Each member, based upon his or her individual and professional experiences, provides his or her best judgment on the matters before the Judicial Proceedings Panel, and he or she does so without representing any particular point of view and in a manner that is free from conflict of interest. Members of the Judicial Proceedings Panel appointed by the Secretary of Defense, who are not full-time or permanent part-time Federal employees, shall be appointed as experts or consultants pursuant to 5 U.S.C § 3109 to serve as special government employee (SGE) members.

Membership Balance Plan
Judiciary Proceedings Since Fiscal Year 2012 Amendments Panel

The DoD, unless otherwise instructed by an Act of Congress or Presidential directive, does not use representative members on DoD established or supported advisory committees.

4. Other Balance Factors: None.
5. Candidate Identification Process: The DoD, in selecting potential candidates for the Judicial Proceedings Panel, reviews the educational and professional credentials of individuals with extensive professional experience in military law, civilian law, the investigation, prosecution, and adjudication of sexual assaults in State and Federal criminal courts, victim advocacy, treatment for victims, military justice, the organization and missions of the Armed Forces, and offenses relating to rape, sexual assault, and other adult sexual assault crimes. Potential candidates will be identified by the DoD General Counsel (GC).

Once potential candidates are identified, the Designated Federal Officer, in consultation with the GC, will review the credentials of each individual and narrow the list of potential candidates. During the GC's review, the GC will strive to achieve a balance between the educational and professional credentials of the individual candidates and the subject matter that is to be reviewed by the Judicial Proceedings Panel.

Prior to nominating the potential candidates, the list of candidates will undergo a review by the DoD Office of General Counsel and the Office of the Advisory Committee Management Officer to ensure compliance with Federal and DoD governance requirements, including compliance with the Judicial Proceedings Panel's charter and membership balance plan. Following this review, the GC formally nominates the potential candidates to the Secretary of Defense for approval. Pursuant to DoD policy, only the Secretary of Defense or the Deputy Secretary of Defense can invite or approve the appointment of individuals to DoD established or supported advisory committees.

Following approval by the Secretary or Deputy Secretary of Defense, the candidates are required to complete the necessary appointment paperwork, to include meeting ethics requirements stipulated by the Office of Government Ethics for advisory committee members.

Members of the Judicial Proceedings Panel shall be appointed for the life of the Judicial Proceedings Panel, subject to annual renewal. All original appointments to the Judicial Proceedings Panel shall be made no later than 30 days before the termination of the Response Systems Panel. Any vacancy shall be filled in the same manner as the original appointment.

6. Subcommittee Balance: The Department, when necessary and consistent with the Judicial Proceedings Panel's mission and DoD policies and procedures, may establish subcommittees, task groups, or working groups to support the Panel. The Secretary of Defense shall appoint subcommittee members even if the member in question is already a member of the Judicial Proceedings Panel. Such individuals, if not full-time or permanent part-time Federal officers or employees, shall be appointed as experts or consultants pursuant to 5 U.S.C. § 3109 to serve as SGE members. Those individuals who are full-time or permanent part-time Federal officers or employees, shall be appointed pursuant to

Membership Balance Plan
Judiciary Proceedings Since Fiscal Year 2012 Amendments Panel

41 C.F.R. § 102-3.130(a) to serve as regular government employee members. Subcommittee members, with the approval of the Secretary of Defense, may serve for the life of the subcommittee, subject to annual renewals. If the DoD does establish any subcommittees, vacancies will be filled in the same manner as the Secretary of Defense appointments are made as described above in Section 5.

7. Other: As nominees are considered for appointment to the Judicial Proceedings Panel, the DoD adheres to the Office of Management and Budget's Final Guidance on Appointment of Lobbyists to Federal Boards and Commissions (76 FR 61756; October 5, 2011) and the rules and regulations issued by the Office of Government Ethics.

8. Date Prepared: June 24, 2014